A Policy Statement To Address Growing Conflict Over Changing Uses On California's Forests and Rangelands 1990-1995

A Report By:

Forest and Rangeland Resources Assessment Program (FRRAP)
California Department of Forestry and Fire Protection

January 1990

STATE OF CALIFORNIA

3. CLARIFICATION OF ROLES OF PROFESSIONALS

<u>Goal:</u> Emphasize the existing lead responsibilities of, and clarify the role of, Registered Professional Foresters (RPFs), and the interaction with other professionals in the management of California's wildland resources.

Scope of Issue: The Professional Foresters Law enacted in 1972 establishes RPFs as the persons who provide consultation, investigation, evaluation, planning, and responsible supervision of forestry. Forestry in the code addresses a broad natural resource responsibility for these tasks on wildlands. The law states that these tasks relate to "the science which treats wildland resources in general, and of lands bearing associations of trees and woody plants in particular; investigation of wildland soils, plants, animals, and the ecology thereof; and the application of scientific knowledge in the fields of wildland protection, timber growing and utilization, forest resource inventories, watershed management, forest economics and finance, air and water pollution control on wildlands, outdoor recreation, and the preservation of natural scenery."

The rapid urbanization of wildlands is complicating the roles of various professionals and the need for professional accountability. Clarification is required regarding non-licensed experts; the relationship between RPFs and other licensed professionals such as geologists, landscape architects, engineers, and land surveyors; and forestry activities on, or adjacent to, federal lands involving contractors or employees. The State Legislative Archives shows the RPF law was set up similarly to the General Building Contractors law where one professional is ultimately responsible and coordinates input or work products from other important disciplines.

The Professional Foresters Examining Committee (PFEC) formed ad hoc RPF committees over two years ago to evaluate these issues. Their input was compiled and was reviewed by hardwood range interest groups, and later a broader multi-disciplinary committee. Final reports are pending.

<u>Policy Direction:</u> The Executive Officer for Foresters Licensing is continuing to communicate with individuals, professional societies, and other agencies to attempt to resolve differences over the appropriate role of RPFs, consistent with Board authority and resource professionals' accountability. Matters will be evaluated by the PFEC for recommendations to the Board.

Action Items:

- The Board through regulation should clarify undefined terms in the law, and list tasks requiring, or not requiring, a license. The Attorney General's opinion on a number of licensing questions, when received, should be incorporated. Regulations will be based on historical documents, consistent with the existing lead role of the professional forester and discussions with other natural resource professionals.
- Evaluate whether specialty professional certificates are now warranted. Alternatives may be possible within Board authority to allow other resource professionals to take on responsibility and accountability for specific tasks.
- Evaluate suggested changes in the professional examination process and content.
- Evaluate the desirability of law changes to raise some fee limits to allow coverage of costs in ongoing and predicted disciplinary cases; cost recovery of disciplinary action for persons found guilty by the Board; inclusion of public members other than Board members in the composition of the PFEC; and the PFEC's role in the disciplinary process.

B. Continued Support

1. INTEGRATED STATEWIDE FIRE AND EMERGENCY SERVICES

Goal: Continue to encourage the integration of fire and emergency service operations statewide, both at the local and state level, with responsibilities and roles keyed to the effective provision of multiple services.

Scope of Issue: Urbanization of the state's wildland is a significant and growing problem for fire protection organizations. Expanded use of wildlands has increased the risk of fires. It also has meant that firefighters need to be more concerned with protection of life and property. Increasingly, the California Department of Forestry and Fire Protection is called on to provide services not directly related to wildland fire protection. They include, but are not limited to, structural protection,

State of California

To:

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Department of Justice 1515 K Street, Suite 511 P.O. Box 944255 Sacramento, CA 94244-2550

Memorandum

STATE BOARD OF FORESTRY

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The Chairman of the California

Date : May 2, 1990

Board of Forestry 1416 Ninth Street

FileNo.

Sacramento, Ca. 95814 Attention: Dean Cromwell,

Telephone: ATSS (8) 454-4913

Executive Secretary

(916) 324-4913

William D. Cunningham, Deputy Attorney General

From : Office of the Attorney General -Sacramento

Subject: The Practice of Professional Forestry/Wildlands

Over the last year you have asked our office a variety of questions regarding the practice of professional forestry and the application of the Professional Foresters Law (Public Resources Code, §§ 750, et seq.) Specifically, you have asked for some informal help in defining the term "wildlands" as used in the Professional Foresters Law.

Sections 751 and 753 of the Professional Foresters Law repeatedly use the term "wildlands" in discussing the area of legislative concern and the resource to be treated by the science of "forestry". Understanding what the Legislature meant by using the word "wildlands" will help in delimiting the geographic scope of a professional forester's role.

ANALYSIS

As you are aware, the purpose of the Professional Foresters Law is to declare the existence of a public interest in the management and treatment of forest resources and timberlands of this state and to provide for the regulation of persons who practice the profession of forestry and whose activities have an impact upon the ecology of the wildlands and the quality of the wildland environment, and, through such regulation, to enhance the control of air and water pollution, the preservation of scenic beauty, the protection of watersheds for flood and soil erosion control, and the production and increased yield of natural resources including timber, forage, wildlife, water and outdoor recreation, to meet the needs of the people. The professional forester, the person who practices "the profession of forestry" in this discussion, is a person who, by reason of his knowledge of the natural sciences, mathematics and the principles of forestry acquired by forestry education and experience, performs services including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forestry activities, when such professional services require the application of forestry principles and techniques." (Pub. Resources Code, § 752.)

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And forestry as used in this discussion refers to the science

"which treats of wildland resources in general, and of lands bearing associations of trees and other woody plants in particular; investigation of wildland soils, plants, and animals, and the ecology thereof; and the application of scientific knowledge in the fields of wildlands protection, timber growing and utilization, forest resource inventories, watershed management, forest economics and finance, air and water pollution control on wildlands, outdoor recreation, and the preservation of natural scenery." (Pub. Resources Ccde, § 753; emphasis added.)

In providing the Board with these definitions, the Legislature did not subsequently provide the Board with a definition of "wildlands". Webster's Third New International Dictionary provides an initial definition of "wildland" as "land that is uncultivated or unfit for cultivation." (1961, p. 2616.) The plain meaning of the word "wildlands" then suggests a broad variety of lands and land types in California.

An examination of Sections 751 and 753 of the Public Resources Code provides additional guidance to the Board about what the Legislature intended the word "wildlands" to mean. It's clearly more than just "forests". As Section 753 notes, "forestry" refers to the science "which treats of wildland resources in general, and of lands bearing associations of trees and other woody plants in particular..." Timberlands and brushlands clearly appear to be subcategories of "wildlands". The "wildland environment" includes whole "watersheds" and such natural resources as "timber, forage, wildlife, water and outdoor recreation..." (Pub. Resources Code, § 751.) In adopting the Professional Foresters Law, the Legislature seems to have adopted the broadest generic term for the resource or resources to be protected.

A brief review of the Public Resources Code shows the State's (and the Board's) interest in protecting range and brushlands (§§ 713, 714, 741), forage (§§ 751 and 4513), forests (§§ 713, 714, 740, 751 and 4512, et seq.) and timber or timberlands (§§ 751 and 4512, et seq.). "Wildlands" appears to be a composite term for all these lands — grasslands, brushlands and timberlands.

The Board may wish to clarify the word "wildlands" by defining it in regulation (Pub. Resources Code, § 759) or by asking the Legislature for additional guidance. Until that time, however, the mandate of the Professional Foresters Law requires the

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participation of a trained professional (the professional forester) when his activities will "have an impact upon the ecology of the wildlands and the quality of the wildland environment." (Pub. Resources Code, § 751.) Any more specific consideration of which specific acts on which specific lands require a professional forester should await a case-by-case discussion.

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WDC: jw

cc: Douglas Noble, Acting Assistant Attorney General